

AMENDED IN ASSEMBLY MAY 14, 2003
AMENDED IN ASSEMBLY MARCH 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 291

Introduced by Assembly Member Aghazarian

February 5, 2003

An act to add and repeal Sections 17052.13 and 23601 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 291, as amended, Aghazarian. Personal income and corporation taxes: tax credit: ~~environmental~~ *agricultural environment* remediation expenditure.

The Personal Income Tax Law and the Bank and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would authorize a credit against those taxes for each taxable year beginning on or after January 1, 2003, and before January 1, 2008, in an amount equal to 25% of the qualified ~~environmental~~ *agricultural environment* remediation expenditure, as defined, paid or incurred during the taxable year by a taxpayer engaged in an agricultural business activity in the San Joaquin River basin, Sacramento River basin, or Tulare Lake basin.

This bill would make legislative findings and declarations as to the necessity of a special statute.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Under the Porter-Cologne Water Quality Control Act, the
4 State Water Resources Control Board has the ultimate authority
5 over state water rights and water quality policy. Regional water
6 quality control boards are authorized to oversee water quality on
7 a day-to-day basis at the local or regional level.

8 (b) Regional boards regulate all pollutant or nuisance
9 discharges that may affect either surface water or groundwater in
10 their respective regions. The boards have the authority to issue a
11 waiver from the waste discharge requirements and, since 1982,
12 have waived those requirements with respect to certain
13 agricultural runoffs and agricultural discharges, in part, because
14 agricultural waste is classified as a nonpoint source of pollutants.

15 (c) Certain farmers, however, have been voluntarily
16 monitoring surface discharges, operational spills, subsurface
17 drainage and stormwater runoff from irrigated lands in the San
18 Joaquin River basin, the Sacramento River basin, and the Tulare
19 Lake basin, in order to meet the total maximum daily load goals
20 of the rivers.

21 (d) It is the intent of the Legislature to provide a tax credit for
22 ~~environmental~~ agricultural environment remediation
23 expenditures paid or incurred by a taxpayer who is engaged in an
24 agricultural business activity in the San Joaquin River basin or the
25 Sacramento River basin or the Tulare Lake basin, in connection
26 with abatement or control of agricultural runoffs or discharges for
27 purposes of complying with the waste discharge requirements
28 established by either the State Water Resources Control Board or
29 a regional water quality control board pursuant to the
30 Porter-Cologne Water Quality Control Act.

31 SEC. 2. Section 17052.13 is added to the Revenue and
32 Taxation Code, to read:

33 17052.13. (a) For each taxable year beginning on or after
34 January 1, 2003, and before January 1, 2008, there shall be allowed
35 as a credit against the "net tax," as defined in Section 17039, an

1 amount equal to 25 percent of the qualified ~~environmental~~
2 *agricultural environment* remediation expenditure paid or
3 incurred by a qualified taxpayer for the taxable year.

4 (b) For purposes of this section:

5 (1) “Qualified ~~environmental~~ *agricultural environment*
6 remediation expenditure” means any expenditure that is both of
7 the following:

8 (A) Chargeable to capital account.

9 (B) Paid or incurred in connection with abatement or control of
10 wastewater, agricultural runoff, and other hazardous agricultural
11 discharges at a qualified contaminated site.

12 (2) “Qualified taxpayer” means ~~an individual~~ *a taxpayer*
13 engaged in an agricultural business activity in the San Joaquin
14 River basin, Sacramento River basin, or Tulare Lake basin.

15 (3) “Agricultural business activity” means activities relating
16 to any stock, dairy, poultry, fruit, furbearing animal, or truck farm,
17 plantation, ranch, nursery, or range. “Agricultural business
18 activity” also includes activities relating to cultivating the soil or
19 raising or harvesting any agricultural or horticultural commodity,
20 including, but not limited to, the raising, shearing, feeding, caring
21 for, training, or management of animals on a farm as well as the
22 handling, drying, packing, grading, or storing on a farm any
23 agricultural or horticultural commodity in its unmanufactured
24 state, but only if the owner, tenant, or operator of the farm
25 regularly produces more than one-half of the commodity so
26 treated.

27 (4) “Qualified contaminated site” means any area, located
28 within the San Joaquin River basin, Sacramento River basin, or
29 Tulare Lake basin, that *satisfies both of the following*:

30 (A) *It is held by the qualified taxpayer for use in his or her*
31 *agricultural business activity or for the production of income, and*
32 *at or on which there has been a release, or threat of release, or*
33 *disposal of any wastewater, agricultural runoff, or any other*
34 *hazardous agricultural discharges.*

35 (B) (i) *It is certified by the regional water quality control board*
36 *as provided in clause (ii).*

37 (ii) *At the request of a qualified taxpayer, a regional water*
38 *quality control board shall provide to the qualified taxpayer*
39 *certification of any release, threat of release, or disposal of*
40 *wastewater, agricultural runoff, or any other hazardous*

1 *agricultural discharges at or on the area held by the qualified*
2 *taxpayer for use in his or her agricultural business activity or for*
3 *the production of income.*

4 (c) No credit is allowed to a taxpayer under this section for any
5 otherwise qualified ~~environmental~~ *agricultural environment*
6 expenditure if the taxpayer elected pursuant to Section 17279.4 to
7 have Section 198 of the Internal Revenue Code apply to the
8 qualified ~~environmental~~ *remediation* expenditure paid or incurred
9 by the taxpayer.

10 ~~(d)~~ *made a valid election for federal tax purposes under*
11 *Section 198 of the Internal Revenue Code to deduct qualified*
12 *agricultural environment remediation expenditure in the taxable*
13 *year in which the taxpayer paid for or incurred that expenditure.*

14 (d) Upon request from the Franchise Tax Board, a taxpayer
15 shall provide to the Franchise Tax Board a copy of the certification
16 issued by the regional water quality control board as described in
17 subparagraph (B) of paragraph (4) of subdivision (b).

18 (e) In the case where the credit allowed by this section exceeds
19 the “net tax,” the excess may be carried over to reduce the “net
20 tax” in the following year, ~~and succeeding years~~ *six years*, if
21 necessary, until the credit is exhausted.

22 ~~(e)~~
23 (f) *The basis of any property for which a credit is allowed under*
24 *this section shall be reduced by the amount of the credit*
25 *attributable to the property. The basis adjustment shall be made for*
26 *the taxable year for which the credit is allowed.*

27 (g) This section shall remain in effect only until January 1,
28 2008, and as of that date is repealed.

29 SEC. 3. Section 23601 is added to the Revenue and Taxation
30 Code, to read:

31 23601. (a) For each income year beginning on or after
32 January 1, 2003, and before January 1, 2008, there shall be allowed
33 as a credit against the “tax,” as defined in Section 23036, an
34 amount equal to 25 percent of the qualified ~~environmental~~
35 *agricultural environment* remediation expenditure paid or
36 incurred by a qualified taxpayer for the taxable year.

37 (b) For purposes of this section:

38 (1) “Qualified ~~environmental~~ *agricultural environment*
39 *remediation expenditure*” means any expenditure that is both of
40 the following:

1 (A) Chargeable to capital account.

2 (B) Paid or incurred in connection with abatement or control of
3 wastewater, agricultural runoff, or other hazardous agricultural
4 discharges at a qualified contaminated site.

5 (2) “Qualified taxpayer” means a taxpayer engaged in an
6 agricultural business activity in the San Joaquin River basin,
7 Sacramento River basin, or Tulare Lake basin.

8 (3) “Agricultural business activity” means activities relating
9 to any stock, dairy, poultry, fruit, furbearing animal, or truck farm,
10 plantation, ranch, nursery, or range. “Agricultural business
11 activity” also includes activities relating to cultivating the soil or
12 raising or harvesting any agricultural or horticultural commodity,
13 including, but not limited to, the raising, shearing, feeding, caring
14 for, training, or management of animals on a farm as well as the
15 handling, drying, packing, grading, or storing on a farm any
16 agricultural or horticultural commodity in its unmanufactured
17 state, but only if the owner, tenant, or operator of the farm
18 regularly produces more than one-half of the commodity so
19 treated.

20 (4) “Qualified contaminated site” means any area, located
21 within the San Joaquin River basin, Sacramento River basin, or
22 Tulare Lake basin, that *satisfies both of the following*:

23 (A) *It is held by the qualified taxpayer for use in its agricultural*
24 *business activity or for the production of income, and at or on*
25 *which there has been a release, or threat of release, or disposal of*
26 *wastewater, agricultural runoff, or any other hazardous*
27 *agricultural discharges.*

28 (B) (i) *It is certified by the regional water quality control board*
29 *as provided in clause (ii).*

30 (ii) *At the request of a qualified taxpayer, a regional water*
31 *quality control board shall provide to the qualified taxpayer*
32 *certification of any release, threat of release, or disposal of*
33 *wastewater, agricultural runoff, or any other hazardous*
34 *agricultural discharges at or on the area held by the qualified*
35 *taxpayer for use in its agricultural business activity or for the*
36 *production of income.*

37 (c) No credit is allowed to a taxpayer under this section for any
38 otherwise qualified ~~environmental~~ *agricultural environment*
39 ~~expenditure if the taxpayer elected pursuant to Section 17279.4 to~~
40 ~~have Section 198 of the Internal Revenue Code apply to the~~

1 ~~qualified environmental remediation expenditure paid or incurred~~
2 ~~by the taxpayer.~~

3 ~~(d) made a valid election for federal tax purposes under~~
4 ~~Section 198 of the Internal Revenue Code to deduct the qualified~~
5 ~~agricultural environment remediation expenditure in the taxable~~
6 ~~year in which the taxpayer paid for or incurred that expenditure.~~

7 (d) Upon request from the Franchise Tax Board, a taxpayer
8 shall provide to the Franchise Tax Board a copy of the certification
9 issued by the regional water quality control board as described in
10 subparagraph (B) of paragraph (4) of subdivision (b).

11 (e) In the case where the credit allowed by this section exceeds
12 the “tax,” the excess may be carried over to reduce the “tax” in
13 the following ~~year, and succeeding years~~ six years, if necessary,
14 until the credit is exhausted.

15 ~~(e)~~
16 (f) The basis of any property for which a credit is allowed under
17 this section shall be reduced by the amount of the credit
18 attributable to the property. The basis adjustment shall be made for
19 the taxable year for which the credit is allowed.

20 (g) This section shall remain in effect only until January 1,
21 2008, and as of that date is repealed.

22 SEC. 4. The Legislature finds and declares that a special tax
23 is necessary and that a general law cannot be made applicable
24 within the meaning of Section 16 of Article IV of the California
25 Constitution because of the unique activities, burdens, and
26 remediation efforts associated with agricultural businesses located
27 in the San Joaquin River basin, the Sacramento River basin, and
28 the Tulare Lake basin.

29 SEC. 5. This act provides for a tax levy within the meaning of
30 Article IV of the Constitution and shall go into immediate effect.
31